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EXAMINER

BROCKETTI, JULIE K

ART UNIT	PAPER NUMBER
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3713

DATE MAILED: 01/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/932,741

Applicant(s)

CANNON, LEE E.

Examiner

Julie K. Brockett

Art Unit

3713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 38,39,41-50,64,65,67-101 and 104-106 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 38,39,41-50,64,65,67-101 and 104-106 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 October 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

The drawings were received on October 31, 2005. These drawings are approved.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 38, 39, 41-50, 68-70 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 38 states "...the outcome being one of a plurality of outcomes including a first set of outcomes and a second set of outcomes..." The claim states that one outcome is generated and that outcome is selected from a plurality of outcomes and that the plurality of outcomes further comprises a first and second set of outcomes. It is therefore unclear, how cells in two separate groups are designated when only one outcome is being selected, not two outcomes, i.e. one from the first set and a second outcome from the second set.

Claims 41 and 42 recite the limitation "the first group of players". There is insufficient antecedent basis for this limitation in the claims. The previous recitation was to "a first plurality of players", not a group.

Claims 68-70 recite the limitation "the cell of the plurality of cells". There is insufficient antecedent basis for this limitation in the claim. It is unclear as to which "cell" of the plurality of cells applicant is referring to. The previous recitation was to "a respective cell of the plurality of cells, not just "a cell".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 64, 65, 67, 69, 71-73, 75, 76, 79, 80 and 105 are rejected under 35 U.S.C. 102(b) as being anticipated by Marnell, II, U.S. Patent No. 5,393,057. Marnell discloses a method for playing a group game. Wagers are received from a plurality of players at respective gaming machines (See Marnell col. 4 line 18). Outcomes of individual games played by the plurality of players are determined at the respective gaming machines (See Marnell col. 2 lines 35-67; col. Figs. 1 & 2). An image representing a group game played by all of the

players is displayed at the respective gaming machines is displayed on a display device communicatively coupled to the plurality of gaming machines. The image is representative of the group game and comprises a first plurality of cells corresponding to the group goal. The group game includes taking a first plurality of ordered steps toward a first group goal. Each step/cell of the first plurality of ordered steps/cells is attributable to any of the respective gaming machines of the plurality of players. For each outcome from a first set of outcomes, an image representative of taking one step of the first plurality of ordered steps towards the first group goal is displayed wherein the image representative of taking the one step of the first plurality of steps towards, the group goal includes a designation indicative of the respective gaming machine at which the outcome from the first set of outcomes was determined. A value payout associated with the group game is provided based on the outcomes of the individual games played by the plurality of players at the respective gaming machines (See Marnell Figs. 1, 2, 5, col. 2 lines 35-67; col. 9 lines 49-60; col. 10 lines 7-24) [claims 64, 81, 105, 106]. For example, players place wagers and then receive an individual outcome, if that individual outcome is in the matrix, the corresponding cell is marked. Play repeats these steps “in order” until there is a BINGO in the matrix at which point the jackpot is awarded. Consequently, the steps that are performed in the game are performed “in order”. The image representative of the group game comprises a plurality of cells arranged in an order, i.e. the “order” can include random order, wherein

each cell of the plurality of cells corresponds to each step of the first plurality of ordered steps. Displaying the image representative of taking one step of the first plurality of ordered steps towards the first group goal comprises designating a next cell in the order with the designation indicative of the respective gaming machine at which the outcome from the first set of outcomes was determined (See Marnell Fig. 1; col. 7 lines 1-14) [claims 65, 105]. Each outcome of the first set of outcomes corresponds to a respective cell of the plurality of cells (See Marnell Fig. 1) [claim 67]. Designating the cell of the plurality of cells comprises not designating the cell if the cell was previously designated (See Marnell col. 9 lines 15-19) [claims 69, 93]. The first group goal includes achieving a predetermined number of outcomes from the first set of outcomes (See Marnell col. 6 lines 18-23) [claims 71, 82]. The first group goal includes achieving each outcome from the first set of outcomes at least once (See Marnell col. 6 lines 18-23) [claim 72]. The group game includes taking a second plurality of ordered steps toward a second group goal during the same game as taking the first plurality of ordered steps toward the first group goal, wherein each step of the second plurality of steps is attributable to any of the respective gaming machines of the plurality of players. For each outcome from a second set of outcomes, an image representative of taking one step of the second plurality of ordered steps towards the second group goal is displayed, wherein the image representative of taking the one step of the second plurality of steps towards the second group goal includes a designation indicative of the

respective gaming machine at which the outcome from the second set of outcomes was determined (See Marnell col. 6 lines 23-27) [claims 73]. In response to outcomes from the first set of outcomes, steps of the first plurality of ordered steps are attributed to the players at whose gaming machines the outcomes were determined, wherein providing the value payout comprises apportioning the value payout among a set of players of the plurality of players to whom steps of the first plurality of steps are attributed (See Marnell col. 7 lines 1-14) [claim 75]. Apportioning the value payout among the set of players is based on the number of steps of the first plurality of ordered steps attributed to each player of the set of players (See Marnell col. 7 lines 1-14) [claim 76]. The individual games comprise at least one of a reel-type slot machine game, a poker game, a blackjack game, a keno game, a lotto game and a bingo game (See Marnell col. 3 lines 54-62) [claims 79, 104]. An image representing an individual game played by one of the plurality of players is displayed (See Marnell Fig. 1) [claims 80, 101]. The gaming system comprises a plurality of gaming machines wherein each gaming machine comprises a gaming machine controller comprising a processor and a memory operatively coupled to the processor. The gaming machine controller is configured to perform the steps mentioned above (See Marnell Figs. 4, 5) [claim 105, 106]. Each of a plurality of plays of individual games are played by a plurality of players at respective gaming machine in which an outcome is generated for the individual game. The outcome is one of a plurality of outcomes including at least one specific

outcome (See Marnell col. 2 lines 35-67; col. Figs. 1 & 2). At least one group of cells is displayed. Each cell in the at least one group of cells is capable of being designated with a designator in response to any player of the plurality of players achieving the at least one specific outcome. The designator indicate the gaming machine at which the at least one specific outcome was generated. A cell of the at least one group of cells is designated with the designator responsive to each occurrence of the at least one specific outcome (See Marnell Figs. 1 & 2; col. 6 lines 1-8, 60-67) [claim 105].

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 68, 70, 77 and 78 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marnell, U.S. Patent No. 5,393,057. Marnell does disclose removing a previous designation, if any (See Marnell col. 10 lines 24-49), but lacks in disclosing that this removal is in response to a designation of the cell. The Examiner takes "Official Notice" that in the game of "chess" when one player captures another player's playing piece, which previously, "designated a cell" the previous designation is removed when "designating the

cell” with the current player’s piece. It is well known throughout the art that in numerous games when one player lands on the same spot as another player, as in chess, the previous player’s “designation” of that spot is removed so that it can be seen that the other player now has control of that spot in the game. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to remove a previous designation from the invention of Marnell when designating the cell so that the designation of a single player who has control of the cell is visible for all players to see [claims 68, 92].

Marnell lacks in disclosing allowing the cell to have multiple designations. It would have been obvious to one of ordinary skill in the art at the time the invention was made to allow designation of the cell of the plurality of cells if the cell was previously designated, wherein the designated cell of the plurality of cells has associated therewith multiple designations [claims 70]. For example, the Examiner takes Official Notice that numerous board games allow two players to occupy the same place at the same time, i.e. multiple designations of a cell. By allowing multiple designations of the cell more players are capable of winning a share of the payout. Therefore, players can be rewarded for obtaining certain outcomes even if other players obtained them first. Consequently, the game becomes more enjoyable to players by giving them more chances to win.

While Marnell does disclose that each step of the first plurality of ordered steps corresponds to a portion of the value payout, Marnell lacks in disclosing that each step of the first plurality of steps is capable of being attributed to multiple players wherein apportioning the value payout among a set of players comprises apportioning each portion of the value payout to the one or more players attributed to the step corresponding to the portion of the value payout. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have each step of the first plurality of steps is capable of being attributed to multiple players wherein apportioning the value payout among a set of players comprises apportioning each portion of the value payout to the one or more players attributed to the step corresponding to the portion of the value payout [claims 77, 99]. By allowing multiple designations of the cell more players are capable of winning a share of the payout. Therefore, players can be rewarded for obtaining certain outcomes even if other players obtained them first. Consequently, the game becomes more enjoyable to players by giving them more chances to win. Marnell also lacks in disclosing that each of the first ordered steps is capable of being attributed to a single player multiple times. It would have been obvious to one of ordinary skill in the art at the time the invention was made to allow a single player to achieve multiple outcomes of the same game outcome [claims 78, 100]. If a player achieves multiple outcomes they should be rewarded for this by apportioning each portion of the value payout based on the number of times

a player is attributed to the step corresponding to the portion of the value payout. By rewarding a player for all of their individual outcomes, the player will enjoy the game more. Furthermore, if one is rewarding multiple players for obtaining the same outcome, one should also reward a single player for obtaining the outcome more than once in order to be fair.

Claims 38, 39, 41-46, 74, 81-84, 90-101, 104 and 106 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marnell, U.S. Patent No. 5,393,057 in view of Weingardt, U.S. Patent No. 5,482,289. Marnell discloses a method for playing a group game. Each of a plurality of plays of individual games are played by a plurality of players at respective gaming machine in which an outcome is generated for the individual game. The outcome is one of a plurality of outcomes including at least a first set of outcomes and a second set of outcomes (See Marnell col. 2 lines 35-67; col. Figs. 1 & 2). A first group of cells is displayed. Each cell in the first group of cells is capable of being designated with a designator in response to any player of the plurality of players achieving an outcome in the first set of outcomes. The designator indicates the gaming machine at which the outcome from the first set of outcomes was generated. A cell of the first group of cells is designated with the designator responsive to an occurrence of any outcome from the first set of outcomes (See Marnell Figs. 1 & 2; col. 6 lines 1-8, 60-67). A second group of cells is displayed while the first group of cells is displayed. Each cell in the second group of cells is capable of being designated with the

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designator in response to any player of the plurality of players achieving an outcome in the second set of outcomes, wherein the designator indicates the gaming machine at which the outcome in the second set of outcomes was generated. A cell of the second group of cells is designated with the designator responsive to an occurrence of any outcome from the second set of outcomes (See Marnell Figs. 1 & 2; col. 6 lines 1-8, 60-67) [claims 38, 81, 106]. For example, the player plays a poker or slot machine game and based on the outcome of that game if the outcome is included in the bingo matrix, the player gets their gaming machine number placed in the cell of the bingo matrix. The matrix is a 5 x 5 matrix and one can divide the matrix into groups of cells. For example, the first one or two columns could be considered "a first group of cells" and the other columns could be considered to constitute "a second group of cells". Furthermore it is noted that the player receives an outcome and can hold all the cards, this could be considered "an outcome in the first set of outcomes" and when the player discards and receives new cards that can be considered "an outcome in the second set of outcomes". The corresponding cell in the matrix is filled in for both the first or second outcomes. The first value payout is apportioned among a first plurality of players if all of the cells in the first group of cells are designated. The second value payout is apportioned among a second plurality of players if all of the cells in the second group of cells are designated (See Marnell col. 7 lines 7-14; col. 10 lines 7-23) [claim 39]. Apportioning the first value payout comprises apportioning the first value

payout according to respective numbers of designations in the designated cells of the first group of cells that correspond to each gaming machine of the first plurality of players (See Marnell col. 7 lines 7-14) [claim 41]. The first value payout is distributed to the first plurality of players (See Marnell col. 7 lines 7-14; col. 10 lines 7-24) [claim 42]. The first group of cells comprise a first row of cells and the second group of cells comprises a second row of cells (See Marnell Fig. 1) [claim 43]. The first group of cells comprise a first column of cells and the second group of cells comprises a second column of cells (See Marnell Fig. 1) [claim 44]. The first group of cells are configured as a group of playing card indicia and the game provides a player card indicia of the group of playing card indicia for each cell of the first group of cells (See Marnell Fig. 1) [claim 45]. The individual game comprises draw poker (See Marnell col. 4 lines 5-9) [claim 46]. A number of designated cells of the first plurality of cells correspond to a number of outcomes from the first set of outcomes achieved by the plurality of players (See Marnell Fig. 1) [claim 83]. The plurality of cells are arranged in order, i.e. random, wherein designating the cell of the plurality of cells comprises designating a next cell in the order form the plurality of cells (Marnell Fig. 1) [claim 84]. Each cell of the first plurality of cells corresponds to at least one outcome from the first set of outcomes (See Marnell Fig. 1) [claim 90]. Achieving the first group goal corresponds to designating all of the cells in the first plurality of cells (See Marnell col. 6 lines 18-20) [claim 91]. The image representative of the group game includes a plurality of playing cards. Each

playing card of the plurality of playing cards comprises a respective cell of the first plurality of cells. Designating the cell from the first plurality of cells comprises designating a playing card from the plurality of playing cards (See Marnell Fig. 1; col. 6 lines 1-13) [claim 94]. Providing the first value payout comprises providing the first value payout when all of the cells of the first plurality of cells have been designated (See Marnell col. 6 lines 18-24) [claim 96]. Providing the first value payout comprises apportioning the first value payout among players whose gaming machine corresponds to at least one of the designated cells in the first plurality of cells (See Marnell col. 7 lines 1-14) [claim 97]. The first value payout is apportioned based on the number of designated cells in the first plurality of cells corresponding to each gaming machine (See Marnell col. 7 lines 1-14) [claim 98].

Marnell discloses that the first group of cells has associated therewith a first value payout and the second group of cells has associated therewith a second value payout, i.e. each row or column completed will win the jackpot. Marnell lacks in disclosing that the payouts are different from each other. Weingardt teaches of a bingo game in which different winning combinations have different payouts. For example the B column may have a different payout than the E or S column (See Weingardt Fig. 1; col. 3 lines 27-33, 39-41; col. 4 lines 39-48; col. 5 lines 1-9, 27-30) [claims 38, 74, 81, 106]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have different payouts for the different groups of cells of the invention

of Marnell. By having different payouts for different winning combinations, players can be rewarded with larger payouts for achieving the more difficult winning combinations which provides a more entertaining and fair gaming experience for the player.

At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to designate the indicia by crowning the playing card indicia because Applicant has not disclosed that the crowning provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Marnell's game, and applicant's invention, to perform equally well with either lighting up the designated playing card indicia as taught by Marnell or crowning the indicia because both ways would perform the same function of designating the playing card indicia so that a player would recognize that they have achieved that outcome. Therefore, it would have been prima facie obvious to modify Marnell to obtain the invention as specified in claim 95 because such a modification would have been considered a mere design consideration which fails to patentably distinguish over the prior art of Marnell.

Claims 47-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marnell in view of Weingardt in further view of Tallarida, U.S. Patent No. 3,618,952. Marnell discloses all of the limitations above and also discloses that the corresponding designated cell of the first

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group of cells comprises designating playing card indicia (See Marnell Fig. 1) [claim 49]. Marnell discloses designating the playing card indicia by lighting it up in the matrix. At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to designate the indicia by crowning the playing card indicia because Applicant has not disclosed that the crowning provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Marnell's game, and applicant's invention, to perform equally well with either lighting up the designated playing card indicia as taught by Marnell or crowning the indicia because both ways would perform the same function of designating the playing card indicia so that a player would recognize that they have achieved that outcome. Therefore, it would have been prima facie obvious to modify Marnell to obtain the invention as specified in claim 50 because such a modification would have been considered a mere design consideration which fails to patentably distinguish over the prior art of Marnell. Marnell lacks in disclosing that the first group of cells comprises displaying a first group of playing card indicia having a first suit and displaying the second group of cells comprises displaying a second group of playing card indicia having a second suit. Tallarida teaches of a game in which there two groups of cells, where displaying the first group of cells comprises displaying a first group of playing card indicia having a first suit and displaying the second group of cells comprises displaying a second group of playing card indicia

having a second suit (See Tallarida Fig. 2, col. 1 lines 60-75) [claim 47]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have each row of playing card indicia comprise a different suit. Marnell clearly teaches of putting different playing card indicia into the bingo matrix. Tallarida teaches of organizing bingo indicia by playing card suit. Therefore, it is obvious to organize the playing card indicia of Marnell by playing card suit so that players could compete to obtain certain indicia by suit. Furthermore, Marnell teaches of a royal flush being one of the cells in the matrix (See Marnell col. 8 line 54). Therefore, it is also obvious that the first playing card indicia and the second playing card indicia could comprise a hand including a royal flush [claim 48].

Claims 85-89 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marnell in view of Weingardt in further view of Baerlocher et al., U.S. Patent No. 6,648,754 B2. Marnell lacks in disclosing the image of a ladder or lane. Baerlocher teaches of a gaming device in which an image representative of a game includes a ladder/lane, the ladder/lane comprises a first plurality of cells with a bottom/beginning and a top/end. Designation of the cell from the first plurality of cells comprises designating the next undesignated cell from the bottom of the ladder [claims 85, 87]. If the next underdesignated cell is designated, an image of a figure on the ladder/lane moving toward the top/end by one cell is displayed [claims 86, 88]. (See Baerlocher Fig. 6; col. 11 lines 1-18). For example, random selections are

made which move the man up the ladder the number of spaces that are selected towards an overall jackpot goal. At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to have the object in the lane of Baerlocher be a car because Applicant has not disclosed that the use of a car, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Baerlocher's game, and applicant's invention, to perform equally well with any object moving up the ladder/lane. Therefore, it would have been prima facie obvious to modify Baerlocher to obtain the invention as specified in claim 89 because such a modification would have been considered a mere design consideration which fails to patentably distinguish over the prior art of Baerlocher. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a ladder or lane in the invention of Marnell so that one moves from one space in a sequential order. For example, one could consider the last row of the bingo matrix of Marnell to be the bottom/beginning of a ladder/lane as in Baerlocher and require a player to complete the matrix cells in a sequential order so that one could achieve the jackpot prize. By requiring a player to climb a ladder or lane, and thereby achieve cells in a sequence, the player can visually see how many more cells they need to complete before a prize is awarded.

Response to Amendment

It has been noted that claims 38, 39, 41-45, 47-49, 64, 65, 73-78, 81, 96-100 and 105 have been amended. New claim 106 has been added.

Response to Arguments

Applicant argues that Marnell does not teach of a first group of cells while displaying a second group of cells. The Examiner disagrees and notes that certain columns/rows can be designated as the first or second group of cells in Marnell. The Examiner does agree with Applicant that Marnell only has one value payout associated with the bingo matrix and therefore the new reference Weingardt has been added to teach the limitation of a first value payout associated with a first group of cells and a second value payout associated with a second group of cells where the second value payout is different than the first value payout.

Applicant argues with respect to claims 64 and 65 that Marnell does not disclose designating cells in an “order”. The Examiner has reconsidered her position on this and notes that Marnell does teach of designating cells “in order”. The word “order” is vague and can be interpreted in many ways. Furthermore, the diction defines “order” as “the arrangement or sequence of objects”. The Examiner notes that this “order” as claimed by applicant can be “random”. For example, Marnell discloses a specific order for the game to be played, i.e. the players wager, an individual outcome is determined, a cell in

the matrix corresponding to the individual outcome is marked, etc. Therefore, the game clearly has “ordered” steps. Furthermore, the cells are displayed in an “order”, but that order is random. Nothing in Applicant’s claim limitation prevents Marnell’s random ordering from reading on Applicant’s invention.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., that the cells must be filled in a “particular” order) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

The Examiner has withdrawn the rejections using the Pathfinder reference, not because Applicant has overcome the rejection but because, the Examiner believes the references Marnell and Baerlocher alone and in combination more clearly read on Applicant’s claim language.

With respect to claim 81 as stated above, Marnell does disclose two groups of cells and therefore two group goals, i.e. completing one column/row and another column/row. As previously stated Weingardt has been added to teach of two different value payouts.

With respect to claim 68, Applicant argues that Marnell does not describe moving entries in the bingo matrix in response to filling a cell with a new entry. The Examiner agrees and notes that claim 68 is now rejected under

35 USC 103 in view of the Examiner's official notice that it is well known to remove game playing pieces from cells when a new entry is to be made such as in the game of chess.

With respect to claims 70, 77, 78, 99 and 100 Applicant alleges that the Examiner is using hindsight to provide motivation in the art for Marnell to permit a space of the bingo matrix to be designated to multiple gaming devices or to a single player multiple times. The Examiner notes that she is not relying on hindsight but rather Official notice that it is well known in the art in multiple games to have two players occupy the same spot on a game board at the same time.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

With respect to claims 85-89 the Examiner has now added the reference Baerlocher which teaches of the use of a ladder/lane to illustrate the sequential progression of accumulating awards towards a jackpot goal.


Consequently, Applicant's arguments with regards to the Pathfinder reference are moot.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julie K. Brockett whose telephone number is 571-272-4432. The examiner can normally be reached on M-Th 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on 571-272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


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